IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Crl.Rev.Pet.No. 2359 of 2007(D)

AGAINST THE JUDGMENT IN CRL.APPEAL NO.272/05 OF THE ADDL.DISTRICT AND SESSIONS COURT(ADHOC)-II, THODUPUZHA IN C.C.NO.16/03 OF JFCM, DEVIKULAM

REVN. PETITIONER:

THOMAS, S/O.ANTONY,IRAMPIL HOUSE,
DOUBLE CUTTING BHAGOM,MARIAPURAM VILLAGE,
IDUKKI DISTRICT.

BY ADV. SRI.T.RAJASEKHARAN NAIR

RESPONDENTS:

STATE OF KERALA REPRESENTED BY ITS
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl.R.P. No. 2359 OF 2007 D

Dated this the 26th day of June, 2007

O R D E R

In this Revision filed under Section 397 read with Sec. 401 Cr.P.C. the petitioner challenges the conviction entered and the sentence passed by the courts below for an offence punishable under Section 326 IPC.

2. I heard the learned counsel for the Revision Petitioner and the learned Public Prosecutor.

3. Even though the learned counsel appearing for the Revisions Petitioner assailed the judgments, the finding recorded by the courts below are on the basis of appreciation of the oral and documentary evidence. Both the courts have believed the prosecution witnesses and sitting in the rarefied revisional jurisdiction, this court will be loathe in interfering with the concurrent findings. I do not find any error, illegality or impropriety in the finding recorded by the courts below.

4. What now survives for consideration is the question as to whether a proper sentence has been imposed on the Revision Petitioner.

5. Having regard to the fact that the main injury is the fracture of the right arm and the further fact that the injured is none other than

the wife of the accused and no compensation has been awarded by the courts below by invoking section 357(3) Cr.P.C., I am inclined to modify the sentence as below:-

If the revision petitioner pays to PW1, the defacto complainant, a sum of Rs.10,000/-(Rupees ten thousand only) by way of compensation under section 357(3) Cr.P.C. within two months from today, he need only to undergo imprisonment till rising of the court. If, however, the revision petitioner fails to make the payment as aforesaid, the sentence imposed on him by the trial court shall revive. Money, if any, paid by the revision petitioner pursuant to the orders, if any, passed by the lower appellate court shall be refunded to the revision petitioner.

This Revision is disposed of confirming the conviction but modifying the sentence as above.

(V. RAMKUMAR, JUDGE)

aks